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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Charles H Landwer,

10 Plaintiff,

11 v.

12 Royal Neighbors of America, US Funeral
13 Expenses, and Unknown Party,

14 Defendants.

No. CV-24-03134-PHX-JAT

ORDER

15 Plaintiff, who has been granted in forma pauperis status, has moved to have the
16 Marshals serve his complaint. (Doc. 9). Generally, once in forma pauperis status has been
17 granted, if a Plaintiff requests Marshal service, the Court must grant the request. *See*
18 *Boudette v. Barnette*, 923 F.2d 754, 756–57 (9th Cir. 1991).

19 However, the Court notes that there appears to be a pattern by this particular Plaintiff
20 wherein when he receives one telemarketing call, he files suit over that one call. This
21 pattern has resulted in Plaintiff filing four lawsuits in six weeks against the same
22 Defendant: US Funeral Expenses. (*See* CV 24-2930-PHX-DMF; CV 24-3064-PHX-KML;
23 CV 24-3471-PHX-KML and this case).

24 The Court charging a filing fee forces a litigant to consolidate related cases rather
25 than expend extra personal resources. As the Supreme Court has noted, Congress
26 understood this potential abuse of the in forma pauperis statute. *Neitzke v. Williams*, 490
27 U.S. 319, 324 (1989) (finding Congress recognized that “a litigant whose filing fees and
28 court costs are assumed by the public, unlike a paying litigant, lacks an economic incentive

1 to refrain from filing frivolous, malicious, or repetitive lawsuits.”).

2 Here, the Court questions whether each of Plaintiff’s cases should have been filed
3 separately, and indeed whether Plaintiff would have pursued this strategy if he was required
4 to pay the filing fee. Plaintiff is cautioned that an abuse of the in forma pauperis statutes
5 could result in such status being denied or revoked. *See Aziz v. Burrows*, 976 F.2d 1158,
6 1158 (8th Cir. 1992) (finding that the district court can dismiss duplicative or repetitive
7 lawsuits under 28 U.S.C. § 1915); *Pittman v. Moore*, 980 F.2d 994, 995 (5th Cir. 1993)
8 (same).

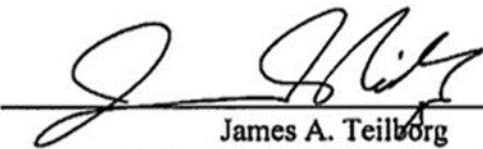
9 Here, because each case appears to be based on a different call, albeit from the same
10 Defendant allegedly selling the same service, the cases are not exactly the same. However,
11 duplicative for purposes of the statute includes that, “district courts may dismiss a
12 duplicative complaint raising issues **directly related** to issues in another pending action
13 brought by the same party.” *Aziz*, 976 F.2d at 1158 (emphasis added).

14 The practical implications in this case include that Plaintiff is trying to obtain
15 Marshal service on US Funeral Expenses repeatedly in Florida. (*See, e.g.*, Doc. 11 at 1, 3).
16 Indeed, Plaintiff is trying to serve them twice in this case alone. (*Id.*).

17 Thus, although the Court has granted in forma pauperis status and allowed
18 Plaintiff’s case to proceed rather than the extreme remedy of dismissal, the Court
19 nonetheless finds that Plaintiff is abusing the in forma pauperis status by repetitively filing
20 one case per call and thereafter seeking Marshal service multiple times on the same
21 Defendant for the same behavior. As a result,

22 **IT IS ORDERED** that the motion for service by the Marshals (Doc. 9) is denied.
23 Plaintiff must serve within the time limits of Federal Rule of Civil Procedure 4(m).

24 Dated this 16th day of December, 2024.

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James A. Teilborg
Senior United States District Judge